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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,375	12/25/2006	Lorrain Sausse	930-99-002 01 USA	3526
128 7590 08/04/2009 HONEYWELL INTERNATIONAL INC. PATENT SERVICES 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245				
EXAMINER DUFF, DOUGLAS J				
ART UNIT		PAPER NUMBER		
3748				
MAIL DATE		DELIVERY MODE		
08/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,375

Applicant(s)

SAUSSE ET AL.

Examiner

DOUGLAS J. DUFF

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

This Office Action is in response to Applicant's request for reconsideration filed 5/1/09.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue et al. (US 4907952). Regarding claims 1 and 3-6, Inoue et al. discloses a turbocharger comprising a center housing (32), a variable nozzle device, and an exhaust housing (39c) being mechanically and/or thermally decoupled from the variable nozzle device (36a), wherein the variable nozzle device comprises a circumferential arrangement of vanes (43) interposed between a nozzle ring (36a) and an outer ring (inner 39c) integrally formed with a peripheral ring (outer 39c) fitted on said nozzle ring (36) and coupled to said center housing (32), characterized in that the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided (at 42), said exhaust housing is mounted directly to a center housing (at 59b) carrying a shaft with a turbine wheel, so that both housings define an inner space in which said variable nozzle device and said turbine wheel are located, said exhaust housing comprises a gas inlet portion (12) attached to said center housing and a gas outlet portion (40a) encompassing with an axially extending clearance a gas outlet portion of the variable nozzle device (38a),

wherein the gas inlet portion of the exhaust housing comprises a flange member axially abutted via a sealing element (50a) to the center housing and mounted thereto by a fastening member (33), characterized by a sealing system for avoiding a gas leakage between the exhaust housing and the variable nozzle device (42, Figs. 2, 8, 10).

3. Regarding claims 7-10, Inoue et al. discloses a turbocharger according to claim 6, wherein the sealing system comprises a circumferential recess (42) formed in said gas outlet portion of the variable nozzle device and containing a piston ring, characterized by at least one further circumferential recess (inside recess of 39b) formed in said gas outlet portion of said exhaust housing and opened to said axially extending clearance between the gas inlet side of said exhaust housing and the piston ring, said vanes are pivotally supported on the nozzle ring (on 47), said nozzle ring being axially urged by the peripheral ring against an annular disc member (48) supported on said center housing, said gas inlet portion of the exhaust housing encompasses with a further axially extending clearance the peripheral ring (38b) of said variable nozzle device (at 60b) and said peripheral ring (38b, outer) is abutted against the same sealing element (50a) via which the flange member (at 50a) of the exhaust housing is secured on the center housing.

Response to Arguments

4. Applicant's arguments filed 5/1/09 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., specific exhaust housing location relative to peripheral ring or variable nozzle

device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. The Examiner recognizes the structural differences between Applicant's invention as shown in Applicant's drawings and the structure of Inoue. However, Applicant has failed to successfully claim the "exhaust housing" location relationship as it relates to the peripheral ring and variable nozzle device. As currently claimed, the Examiner must take a reasonably broad interpretation of the claims. As such, the Examiner points to the element 39c of Inoue as being the claimed exhaust housing since any structural wall in the vicinity of the Inoue turbine would be considered exhaust housing because exhaust gases flow through and past all of these structures.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS J. DUFF whose telephone number is (571)272-3459. The examiner can normally be reached on M-Th 7 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas E. Denion/
Supervisory Patent Examiner, Art Unit 3748

/Douglas J Duff/
Examiner, Art Unit 3748
8/2/09